

LAW LIBRARY  
ARIZONA ATTORNEY GENERAL

February 20, 1951  
Op. No. 51-55

yes  
JFW  
2/21/51

Dr. J. P. Ward  
Director of Public Health  
Arizona State Department of Health  
Phoenix, Arizona

Dear Dr. Ward:

In answer to your letter of February 9, wherein you request the opinion of this office on the question, "Just how far can the State Department of Health go in correcting unsanitary conditions in labor camps?", please be informed as follows.

The powers of the State Department of Public Health to promulgate rules and regulations dealing with unsanitary conditions are set forth in Section 68-112 ACA 1939, as amended in 1941. This section reads:

"Rules and regulations.-- (a) The board shall have power to adopt, promulgate, repeal, and amend rules and regulations consistent with law to: 1. define and control communicable diseases; 2. prevent and control public health nuisances; 3. regulate sanitation and sanitary practices in the interests of public health; 4. cooperate with local boards of health and health officers; 5. protect and promote the public health and prevent disability and mortality; 6. isolate any person affected with and prevent the spread of any contagious or infectious disease; 7. govern the transportation of dead bodies; 8. establish quarantine; and, 9. carry out the purposes of this act."

51-55

Under the provisions of this section we believe the Department could make any rules and regulations required to control unsanitary conditions in labor camps.

The State Board of Health could not arbitrarily declare all labor camps to be public nuisances, under the ruling in the case of Globe School District #1 v. Board of Health, 20 Ariz. 208. In this connection you could make rules and regulations which would prevent a labor camp from being a public nuisance. For example, you could make rules and regulations which would prohibit unsanitary disposal of garbage, pollution of the water supply, unsanitary wash-rooms, etc. In other words, the power to make rules and regulations under this section is sufficiently broad to cover unsanitary conditions in the labor camps, and while the power to make such regulations is not unlimited, in the absence of showing an abuse of authority or discretion the rules and regulations would be valid.

While this is the only section specifically authorizing the State Department of Health to make rules and regulations there are other pertinent provisions authorizing city and county departments of health to make rules and regulations and to deal with the problem herein discussed, and under the provisions of Section 68-112, supra, as amended, the State Department of Health, through cooperation with the city and county departments could proceed under such sections. One manner in which to handle this problem would be under the provisions of Section 68-206, as amended, which states:

"Maintaining unsanitary premises--  
Penalty.-- Any person who maintains in an unsanitary condition, any premises located without the corporate limits of any city or town, and who refuses or fails to place the same in a sanitary condition within three (3) days after being ordered to do so by the county superintendent of health, the county sanitary officer, or any county peace officer acting under the direction and authority of the county superintendent of health, or thereafter refuses or fails to maintain such premises in a sanitary condition, is

Dr. J. P. Ward  
Director of Public Health

February 20, 1951  
Page Three

guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than twenty-five (\$25.00) nor more than one hundred dollars (\$100), imprisonment in the county jail not less than ten (10) nor more than thirty (30) days, or both."

This section gives the county superintendent of health ample authority to deal with unsanitary conditions in labor camps and provides the penalty for failing to carry out the superintendent's orders.

Section 68-205 ACA 1939 provides:

"Sanitary regulations--Violations--  
Penalty--Notice.-- Each city or county board of health, within its jurisdiction, shall examine into all nuisances, sources of filth and causes of sickness and make regulations regarding the same as are necessary for the public health and safety of the inhabitants. A person violating any published order or regulation, made by a board of health, shall be guilty of a misdemeanor and punished by a fine of not exceeding one hundred dollars (\$100), or by imprisonment not exceeding thirty (30) days, or both. Notice shall be given of all general orders and regulations made by them, by publishing the same in some newspaper, if there be one published within the jurisdiction of such board; if none, then by posting such orders and regulations in five (5) public places therein, which shall be legal notice to all persons."

Any rules and regulations made under this section for the purpose of abating any nuisance should be made in conformity with Section 68-301 ACA 1939, which offers another method to handle the problem. This section provides:

Dr. J. P. Ward  
Director of Public Health

February 20, 1951  
Page Four

"Abatement of nuisance.--Whenever any nuisance, source of filth or cause of sickness is found on private property, the county or city board of health shall order the owner or occupant, at his own expense, to remove it within twenty-four (24) hours. Such order may be given to the owner or occupant personally, or left at his usual place of abode. If the owner or occupant fails to comply with the order, the board shall cause such nuisance, source of filth or cause of sickness to be removed, and the expenses thereof shall be paid by such owner or occupant, or by such other person who caused the same."

In this connection we refer you to an opinion (No. 50-339) of this office to Harry S. Jordan, dated September 18, 1950.

In conclusion, it is our opinion that under the provisions of the sections quoted, the State Department of Public Health has sufficient authority to deal with unsanitary conditions in labor camps. Just how far the State Department may go is difficult to say, and we feel it would be much easier to answer specific questions as the occasion arises.

Very truly yours,

FRED O. WILSON  
Attorney General

KENT A. BLAKE  
Assistant Attorney General

KAB:rc